

## **REMARKS/ARGUMENTS**

This Amendment is in response to the Final Office Action dated October 27, 2005.

Claims 1-6, 8-13, and 41 are pending in the present application. Claims 1-6, 8-13, and 41 have been rejected. Claims 1-6, 8-13, and 41 remain pending. For the reasons set forth more fully below, Applicants respectfully submit that the claims as presented are allowable. Consequently, reconsideration, allowance, and passage to issue are respectfully requested.

In the event, however, that the Examiner is not persuaded by Applicants' arguments, Applicants respectfully request that the Examiner enter the arguments to clarify issues upon appeal.

### **Claim Rejections - 35 U.S.C. §103**

The Examiner has stated:

**Claims 1-6, 8-13, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kagami et al. in view of Brewer et al. and Official Notice.**

**Kagami et al. disclose or inherently teach the limitations of the claim 1 (see specifically Fig. 2, and Col. 5, lines 6-41); except the reference lacks the specific teaching of the time frame comprising a range of particular times within a particular day, "notifying an interested party" (the reference only teaches giving "advice to modify"; Col. 5, lines 40-41), and adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular item does not exceed a minimum criteria.**

**Brewer et al. teach an inventory control apparatus whereby inventory can monitored over a range of particular times within a particular day (See, for example, Col. 3, lines 35-46).**

**It would be obvious to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to have the time frame comprise a range of times within a particular day, in view of Brewer et al., in order to "produce a highly flexible system tailoring reports to a users requirements" (See Brewer et al., Col. 3, lines 44-46).**

**Further, it would have been an obvious design choice to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to notify "an interested party", of the advice to modify the inventory control system in order to provide a manager with the necessary information to act on the advice and hence change the system to improve the system's future accuracy.**

**Further, the Examiner takes Official Notice that it is well known in sales to adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum**

criteria. For example, in real estate, an owner of a property has to have his house sold within two weeks due to a job transfer. The real estate agent has been selling houses in the neighborhood within one month on average (thus, the sales projection for this individual item is one month). Because the estimated sales projection (one every month) does not exceed the minimum criteria set by the owner of two weeks, the real estate agent has to adjust the corresponding time frame for selling the house to two weeks. Of course, in order to sell the house in two weeks, the agent would probably have to increase the demand for the house by either lowering the price or working harder to find more buyers. Thus, this example describes how it is common in everyday business/sales to adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria...

### Response to Arguments

Applicant's arguments filed 8/15/2005 have been fully considered but they are not persuasive.

Applicant argues that Brewer does not teach or suggest the time frame "comprising a range of particular times within a particular day", as recited in claim 1. However, the Examiner disagrees. Brewer specifically teaches that the time span can be "any time span....where the time span may be within the last hour" (Col. 3, lines 37-38). The terminology teaches the limitation of the claim in that the "last hour" includes a range (one hour) of particular times (i.e. between 4pm – 5pm) within a particular day (the present day).

The applicant further argues that Brewer does not specifically describe both particular times and particular days. This argument, however, is not persuasive in that claim 1 only states "particular times within a particular day" (not days). The limitation is taught by Brewer as described in the paragraph above.

However, even if claim 1 stated "days" (plural), it is believed that Brewer obviously or even inherently teaches this limitation because Brewer's "report" (described in Col. 3, lines 35-40) for determining stock removal would be useless if the time span was chosen to be "any time span", but the report didn't tell the user which date. Further, there is evidence of inherency or at least obviousness from Brewer's disclosure in Column 3, lines 31-32 ("time and date"), and Brewer's disclosure in Column 3, lines 15-20 ("when it was issued" and "was issued on a particular date").

Further, applicant has argued in a previous communication that Brewer explicitly defines the time span such that "the span may be in the last hour, may be in the last day, may be in the last week, maybe the last month". However, the language is not an explicit definition, but rather a list of examples of Brewer's terminology, "any time span". Column 3, line 40 of Brewer, additionally states that the time frames "may be any other time span". In no way does Brewer teach away from anything, as applicant has argued previously, but rather teaches applicant's limitation in claim 1 of, "comprising a range of particular times within a particular day".

Applicants respectfully disagree with the Examiner's rejections. The present invention is directed to a method for analyzing inventory information using time frames. In accordance with the present invention, the method comprises determining estimated sales projections for individual items. Each individual item has a corresponding time frame comprising a range of

notifying an interested party or a system regarding any items of said one or more items in said particular time frame that have performed unexpectedly versus said estimated sales projections.

28. (Withdrawn) The system as recited in claim 27, wherein the computer program is further operable for performing the following programming step:

storing results of said analysis of said sales data received for said one or more items in said particular time frame with said estimated sales projections for said one or more items in said particular time frame.

29. (Withdrawn) The system as recited in claim 27, wherein said estimated sales projections in said particular time frame are derived from sales trends and sales projection data over a time duration that exceeds said particular time frame.

30. (Withdrawn) The system as recited in claim 27, wherein said sales data for said one or m

31. (Withdrawn) The system as recited in claim 27, wherein said sales data for said one or more items in said particular time frame is collected by an on-line inventory in said one or more POS terminals, wherein said one or more POS terminals transmit said sales data for said one or more items in said particular time frame to said data processing system in a substantially real-time manner.

hours within a particular day. The corresponding time frame is adjusted for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria. The sales data for the individual items in the corresponding time frames is collected and analyzed with the estimated sales projections for the individual items in the corresponding time frames. Finally, an interested party or a system is notified shortly after the end of said corresponding time frame upon determination that any items of the individual items in the corresponding time frames have performed unexpectedly versus the estimated sales projections. The interested party may then take appropriate corrective actions to solve the problem as to why the sale of any items performed unexpectedly. By identifying and reporting items that have performed unexpectedly shortly after the end of the particular time frame, problems can be solved quickly and thereby save the retailer the cost of forgone revenue, lost potential for additional business, reduced profit margins, etc. (Summary). Kagami in view of Brewer does not teach or suggest these features, as discussed below.

Kagami discloses an inventory control method that warns against the excess or deficiency of a stock of goods. Kagami groups goods into classes where each class exhibits a similar life cycle or a specific character of sales results. The sales results are monitored and compared to the change of sales, which is forecasted using a sales change model pattern of each class. If the accuracy of the forecasted sales is poor, the sales change model pattern is modified and used to determine a stock warning index, which provides information on the excess or deficiency of stock. The inventory control method helps to determine a date to order goods and an amount of goods to order for a particular sale season (Background, Summary, Fig. 2, and column 5, lines 6-41).

Applicants agree with the Examiner that Kagami lacks the specific teaching of a “time frame comprising a range of particular times within a particular day” and “adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria,” as recited in independent claim 1.

The Examiner has relied on Brewer to cure the defects of Kagami. Brewer discloses an apparatus that stores stock for retrieval. The apparatus maintains an inventory of the stock contained within and produces an invoice as stock is removed. The stock includes safety equipment that is issued for use in the everyday operation of a company; and the items may also have a limited shelf life. Reports may be produced regarding stock removed from the apparatus in any time span, where the time span may be in the last hour, may be the last day, may be the last week, may be the last month, etc. (Abstract, column 1, lines 5-22, column 2, lines 31-44, and column 3, lines 35-46.)

However, Applicants respectfully submit that Brewer does not teach or suggest the time frame “comprising a range of **particular times** within a **particular day**,” as recited in independent claim 1. The Examiner has argued that Brewer specifically teaches that the time span can be “any time span....where the time span may be within the last hour,” referring to column 3, lines 37-38, of Brewer. The Examiner has further argued that the terminology of Brewer teaches the limitation of the claim in that the “last hour” includes a range of particular times within a particular day. Applicants respectfully disagree. The “last hour” of Brewer is merely an example of a time span unit (e.g., last hour, last day, last week, etc.), and the time span unit is the **most recent time period**. Brewer provides specific examples of the time span having

different units “where the span may be in the **last hour**, may be the **last day**, may be the **last week**, maybe the **last month** or may be any other time span” (column 3, lines 35-40). The time span of the “last hour,” as described in Brewer, is different from a range of particular times as in the present invention, because the time span is linked to the present (e.g., in the “last hour”). In contrast to Brewer, a range of particular times, as in the present invention, is not tied to the present. For example, for one individual item, the range of particular times could be from 3:00pm to 5:00pm last Monday. For another individual item, the range of particular times could be from 12:00am to 6:00am last Wednesday. Brewer cannot provide such selective times of the day and days of the week for different individual items, because Brewer merely teaches a time span unit that is linked to the present. For example, in Brewer, the “last hour” would fail to cover particular times of the day that that cover a time span that is greater than an hour (e.g., from 3:00pm to 5:00pm) or that fall outside of the last hour (e.g., from 3:00pm to 5:00pm last Monday). If the time span unit of Brewer were presumed to be the “last day” (e.g. today), the “last day” would fail to specify the particular times of the day (e.g., from 3:00pm to 5:00pm) and would clearly fail to specify those times if they were on a day other than “today.”

The Examiner has further argued that even if claim 1 were to state “days” (plural), Brewer inherently teaches this limitation. The Examiner has referred to column 3, lines 35-40, stating that the “report” of Brewer for determining stock removal would be useless if the time span was chosen to be “any time span,” but the report did not tell the user which date. The Examiner has also referenced the phrase “time and date” in column 3, lines 31-32, of Brewer and the phrases “when it was issued” and “was issued on a particular date” in column 3, lines 15-20, of Brewer. Applicants respectfully disagree. Where Brewer mentions dates, Brewer does not

mention “particular times.” Furthermore, Brewer clearly fails to teach or suggest a time frame comprising **both** the “particular time” **and** the “particular day,” as recited in the present invention. Furthermore, these dates do not refer to dates for “estimated sales projections,” as recited in the present invention. Instead, one date refers to when a safety item was issued to a person (column 3, lines 15-20) and the other date refers to when an item was produced (column 3, lines 35-40). Nowhere does Brewer mention “estimated sales projections.” To put these dates of Brewer into context, these dates involve safety equipment that is pulled out of storage and issued to a person for every day operations in a company, where the safety equipment may have a limited shelf life (column 1, lines 5-22 and column 2, lines 31-44). Accordingly, if the issue date were not known, determining stock removal during the last day, for example, would still be very useful, because one could determine whether to retrieve safety equipment from an employee would might have forgotten to return the safety equipment.

The Examiner has further argued that Brewer states that the time frames “may be any other time span,” referring to column 3, line 40, of Brewer. However, if the time span unit of Brewer were presumed to be one that is not listed, such as the “last year,” the time span would still fail to specify the particular times of the day (e.g., from 3:00pm to 5:00pm) and would clearly fail to specify the day on which those times fell.

A benefit of the present invention is that an interested party such as a store manager can take appropriate corrective actions in real-time to solve the problem of why sales of an item performed unexpectedly **during a particular range of hours** and on **a particular day**. For example, if sales of an item are less than expected between 12:00 p.m. to 3:30 p.m. on a Monday and between 3:00 p.m. to 5:00 p.m. on a Tuesday, the store manager can determine in real-time if

the item needs to be placed in a better location, needs to be displayed in a different way, or if the store shelf for the item was empty and more units of the item needed to be moved from the warehouse to the store shelf during **particular times** on **particular days** (e.g., between 12:00 p.m. to 3:30 p.m. on Mondays and between 3:00 p.m. to 5:00 p.m. on a Tuesdays).

Furthermore, an interested party or system is notified “shortly after the end of said corresponding time frame upon determination that any items of said individual items in said corresponding time frames have performed unexpectedly versus said estimated sales projections,” as recited in independent claim 1. Brewer cannot provide this benefit, because Brewer merely indicates the most recent time span.

The Examiner recognizes that Kagami does not disclose “adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria” as recited in independent claim 1. The Examiner, however, asserts that “adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria” is well known and the Examiner has taken Official Notice on this subject matter. Applicants respectfully disagree.

While Applicant recognizes that the Examiner is entitled to support an obviousness rejection based on common knowledge in the art, Applicant respectfully submits that the Examiner can only take official notice of facts outside the record which are capable of instant and unquestionable demonstration of being “well known” in the art. In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). In the present case, Applicant submits that one of skill in the art would not have adjusted the corresponding time frame for a particular individual item if



the estimated sales projection for the particular individual item does not exceed a minimum criteria. Adjusting a time frame comprising a “range of particular times” within a particular day would not make sense in the context of a “sale season” of Kagami or in the context of “selling houses” in the Examiner’s example.

Applicants respectfully request the Examiner to cite a reference that provides a teaching or suggestion to adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria. Or if the Examiner is basing the rejection on personal facts within the knowledge of the Examiner, Applicant respectfully requests that the Examiner provide an affidavit to support those facts. See MPEP 2144.03; 37 CFR 1.104 (d)(2).

Therefore, Kagami in view of Brewer does not teach or suggest the combination of steps as recited in claim 1, and claim 1 is thus allowable over Kagami in view of Brewer.

#### Remaining dependent claims

Dependent claims 2-6, 8-13, and 41 depend from amended independent claim 1. Accordingly, the above-articulated arguments related to amended independent claim 1 apply with equal force to claims 2-6, 8-13, and 41, which are thus allowable over the cited reference for at least the same reasons as claim 1.

#### Conclusion

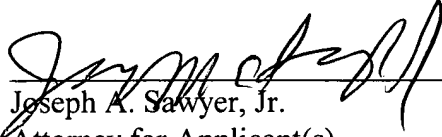
In view of the foregoing, Applicants submit that claims 1-6, 8-13, and 41 are patentable over the cited reference. Applicants, therefore, respectfully request reconsideration and allowance of the claims as now presented.

Applicants' attorney believes that this application is in condition for allowance. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

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Date

  
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